## United States Government National Labor Relations Board OFFICE OF THE GENERAL COUNSEL

## Advice Memorandum

DATE: February 28, 2008

TO : Martha Kinard, Regional Director

Region 16

FROM : Barry J. Kearney, Associate General Counsel

Division of Advice

SUBJECT: Chevron Phillips Chemical Co. 512-5018-3300

Case 16-CA-25946 524-8393-5088

This Section 8(a)(1) case was submitted for advice on whether the Employer unlawfully promulgated a rule barring Union officials from sending e-mails to company managers outside the plant or to broad groups of company managers, where the Employer otherwise allowed the Union to use the company e-mail system for conducting Union business and to communicate with the Employer over labor relations.

We conclude that the Employer's rule was not unlawful because it narrowly concerned only the Union's use of the Employer's e-mail system and did not discriminatorily prohibit the Union from communicating outside the plant or to broad groups of managers.

## FACTS

The Employer and the Union have a long standing bargaining relationship at the Employer's Pasadena plant. The Employer has freely allowed the Union to use the company e-mail system to conduct Union business and to communicate with the Employer over labor relations.

On November 15, 2007, the Employer delivered a letter to the Union stating that the Union had at times inappropriately used the company e-mail system by sending broadly distributed e-mails. As examples, the Employer cited local plant issue e-mails which the Union had sent to company officials outside the plant, and e-mails concerning one supervisor or manager which the Union had sent broadly to other managers not directly involved. The Employer's letter concluded that further e-mail misuse including "sending e-mails to management outside of Pasadena concerning local issues and or failing to be efficient in directing e-mails to the proper recipient may result in the immediate suspension of your company e-mail account."

The following day, the Union notified the Employer by letter that because of the Employer's accusation of inappropriate e-mail use, the Union would no longer use the

company e-mail system. At a meeting in December, the Union offered to again use the e-mail system, and to try to keep local issues in the plant and not send single issue e-mails to more than one manager, if the Employer rescinded its November 15 letter. The Employer did not rescind the earlier letter and instead sent the Union another letter iterating the Employer's concerns.

## ACTION

The Employer's rule was not unlawful because it concerned only the Union's use of the Employer's e-mail system and did not discriminatorily prohibit the Union from engaging in protected communications outside the plant or to broad groups of managers.

The Board recently held that an employer's e-mail system is company property and "employees have no statutory right to use (the company) e-mail system for Section 7 purposes."

The Board thus concluded that an employer "may lawfully bar employees' nonwork-related use of its e-mail system, unless (the employer) acts in a manner that discriminates against Section 7 activity."

The Employer here promulgated a rule barring the Union from sending company e-mail concerning local plant issues outside the plant, and from sending company e-mail concerning one supervisor to other managers not involved. The rule did not bar the Union from communicating outside the plant or from communicating to multiple managers and supervisors. The rule only concerned the use of company equipment, i.e., the Employer's e-mail system. Since the Employer's rule solely involved company equipment, and did not discriminate against Union or Section 7 activity, it was wholly lawful.

B.J.K.

The Register-Guard, 351 NLRB No. 70, sl. op. at p.1 (2007).

 $<sup>^2</sup>$  Id. at p.7